

Advertising, Promotions, and Marketing



HIGHLIGHTS

■ Insightful Advertising Advice

We advise clients on substantiation of claims in advertising and marketing campaigns; promotions, contests, and sweepstakes; false advertising; and FTC regulations and guidance on endorsements, environmental claims, subscription services, “Made in USA,” and reviews, advertising substantiation requirements, among others.

■ Advertising Case Experience

Our team, which includes former senior officials from the FTC and skilled litigators, has significant experience representing companies in false advertising matters, including in federal court litigation, disputes before the National Advertising Division of the Better Business Bureau (NAD), and FTC and state regulatory investigations.

■ Strategic Counseling on Marketing Communications

We routinely advise clients engaged in social media marketing, email communications, marketing calls or texts, including compliance with the Telecommunications Consumer Protection Act (TCPA), the FTC’s Endorsement Guides, and the CAN SPAM Act, and on incoming litigation threats and defense related to alleged non-compliance.

OVERVIEW

Business success is driven by the strength and vitality of a company’s marketplace identity. As companies vigorously compete for increments of market share, that commonly entails competition for customers through advertising and promotions.

We can do more than relate. Our clients are the disruptors, market-makers, and even renegades in the global economy seeking to convert game-changing ideas into world-changing products and rare skills into innovative services.

Our team of seasoned attorneys advise clients when they launch, expand, and explore. Our approach is client-driven and designed to integrate seamlessly and efficiently with now- and next-generation entities that move at the speed of business.

Like our clients, we’re in it to win, whether that means market entry, market-share gain, outmaneuvering competitors, or protecting profits.

What We Do: Our Comprehensive Practice

We excel at providing insightful advice concerning all aspects of advertising, promotions, and marketing. Regardless of our client’s stage of maturity—from growth-minded start-ups to multinational companies with operations and customers around the world—we work closely with clients to develop sophisticated strategies to build and grow brands and marketing content as they pursue their most important business objectives.

Our interdisciplinary team provides a comprehensive scope of services, from the initial stages of selecting business and product names, launches, and leveraging unique characteristics of products and services to later phases of ongoing advertising and promotional campaigns and protecting clients against competitors.

Wilson Sonsini's substantial experience working with clients in areas of critical importance to the success of their businesses includes, for example:

- Advertising and marketing claims and promotional campaigns (email marketing and messaging, contests and sweepstakes, consumer coupon offers, loyalty programs, discount promotions, gift cards, and special offers)
- Brand selection, brand-building campaigns, and brand protection
- Marketing and advertising agreements and commercial transactions driven by brands, content, and advertising (including strategic alliances, partnerships, and joint ventures; asset sales and spinouts; advertising and PR agency agreements; and content and trademark licenses, among others)
- Testimonials, endorsements, and influencers
- Personalized advertising, including liability allocation concerns among advertisers, publishers, ad networks, lead generators, data matching services, and other entities in the ad-tech ecosystem
- Data collection, intelligence, and marketing research
- Social media marketing and website-related issues, including domain names, social media handles, and commercial speech issues
- Ad agency initiatives, media relations inquiries, and public relations initiatives
- Regulatory guidance and responding to agency inquiries and reviews

Who We Represent: Our Clients Across Key Industries

Our team works with clients that range from innovative start-ups to industry leaders in a wide variety of technology sectors, including:

- Biotechnology
- Blockchain and Cryptocurrency
- Clean Energy
- Communications and Networking
- Consumer Products and Services
- Data Storage
- Digital Health
- Digital Media Entertainment
- Electronic Gaming
- Financial Services
- Fintech
- FoodTech and Agtech
- Fintech
- Global Generics
- Internet
- Medical Devices
- Mobile
- Software

Our Scope of Practice: Global Reach and Capabilities

While we align well with key business markets in the U.S. and globally, we work with our clients wherever they engage in business and competition. For example, our team in Brussels engages regularly with EU regulators and can guide companies dealing with European rules on personalized advertising and dark patterns, as well as the proposed Artificial Intelligence Act. In certain regions around the world, we work closely with a trusted network of global counsel to guide our clients as they expand into competitive international markets.

Whether we are assisting during the early stages of a client's entry into new or established markets or advising market leaders aiming to protect their share of the market, our team is adept at devising comprehensive, proactive strategies that help clients enter, execute, and leverage what matters most to their businesses.